

MT LEGISLATIVE HISTORY

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Chapter 500 19 89

Bill H 122 S _____

Original bill & hist. ✓ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Jan 19 ✓ C

Hearing Date(s) Feb 28 ✓ C

Jan 25 ✓ C

Mar 13 ✓ C

_____ C

_____ C

_____ C

_____ C

Date Out Jan 25 ✓ C

Mar 13 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

1 House BILL NO. 122
2 INTRODUCED BY Spaeth
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSONAL
5 REPRESENTATIVE OF AN ESTATE TO GIVE ACTUAL NOTICE TO
6 CREDITORS OF THE ESTATE WHOSE WHEREABOUTS ARE KNOWN OR ARE
7 REASONABLY ASCERTAINABLE; AND AMENDING SECTION 72-3-801,
8 MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 72-3-801, MCA, is amended to read:

12 "72-3-801. Notice to creditors. (1) Unless notice has
13 already been given under this section, a personal
14 representative upon his appointment shall publish a notice
15 once a week for 3 successive weeks in a newspaper of general
16 circulation in the county announcing his appointment and
17 address and notifying creditors of the estate to present
18 their claims within 4 months after the date of the first
19 publication of the notice or be forever barred, and proof of
20 publication shall be filed with the clerk.

21 (2) A personal representative shall give actual notice
22 to creditors of the estate whose names and addresses are
23 known or are reasonably ascertainable. A creditor receiving
24 actual notice shall file his claim within 4 months after the
25 first publication of the notice required in subsection (1)."

-End-



INTRODUCED BILL
HB 122

STATUS SHEET

51 LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB 108	1-10	1-17	1-18			1-18					
HB 97	1-11	1-26	1-26			1-26					
HB 112	1-11	1-19	TABLED ON 2-9								
HB 122	1-12	1-19	1-25	1-25							
HB 123	1-12	1-25	1-25	1-25							
HB 127	1-12	1-25	1-25	1-25							
HB 134	1-13	1-25	TABLED ON 1-25								
HB 135	1-13	1-19	1-19	1-19							
HB 146	1-13	1-19	1-19			1-19					
HB 147	1-13	1-26	1-26	1-26							
HB 152	1-13	1-25	1-25	1-25							
HB 153	1-14	1-24	TABLED ON 1-24								
HB 154	1-14	1-24	1-30			1-30					
HB 155	1-14	1-24	1-30			1-30					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

to court. If that person acknowledged that the death was instantaneous there would be no case as you cannot create a case and prove pain and suffering.

Rep. Eudaily questioned the effective date on this particular bill. If this bill should pass, shouldn't it become effective as soon as possible rather than waiting until October 1 to enact it. Rep. Mercer stated that he would not have any objections to changing the effective date.

Closing by Sponsor: Rep. Mercer closed.

DISPOSITION OF HOUSE BILL 135

Motion: A DO PASS motion was made by Rep. Mercer, seconded by Rep. Eudaily.

Discussion: Rep. Boharski reiterated his above mentioned questions to Rep. Mercer.

Amendments and Votes: None.

Recommendation and Vote: The DO PASS motion was voted upon and CARRIED with Rep. Boharski voting No.

HEARING ON HOUSE BILL 122

Presentation and Opening Statement by Sponsor: Rep. Spaeth, House District 84 stated that this bill requires a personal representative of an estate to give actual notice to creditors that are recently ascertainable. Rep. Spaeth briefly talked about probate procedures as a simple process. When a person establishes or files a probate, the letter is issued to the administrator of the estate and it is published three times, once per week along with a list of creditors in the local newspaper. Within four months after that period of time the creditors must file for their claims. In the State of Montana, under the uniform probate code they are trying to establish a statute of limitations. Rep. Spaeth made reference to the United States Supreme Court decision of the Tulsa Professional Collection Services, Inc. vs. Joanne Pope listed as EXHIBIT 4.

List of Testifying Proponents and What Group They Represent:

None.

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Testimony made by Rep. Spaeth in opening statement.

Questions From Committee Members: Rep. Mercer questioned Rep. Spaeth as to if this was part of the equal improvement group or it is part of the uniform grouping code. Rep. Spaeth stated that this has been forwarded on to the probate section and would like to see this bill approved when the uniform language has been introduced.

Closing by Sponsor: Rep. Spaeth closed.

DISPOSITION OF HOUSE BILL 122

Motion: None.

Discussion: John MacMaster reviewed with the committee proposed amendments to be introduced with HB 122.

Rep. Mercer stated that there are two serious problems with the adoptions to the statute: 1.) It is not uniform with the present uniform probate code, and 2.) They need to specify requirements. There is a tremendous burden on the State, which is really a burden on the survivors to find everyone who is a known creditor and reasonably ascertainable. Rep. Mercer feels that the uniform probate people should be allowed to recommend changes and establish what the proper conditions should be rather than leave it up to the opinion of the State.

Rep. Brown recommended that HB 122 be temporarily pulled off of the Executive list so as the uniform code people could be contacted for information or additional language that may be helpful.

Amendments and Votes: None.

Recommendation and Vote: Remove HB 122 from the Executive Action list. No action or votes taken on HB 122.

DISPOSITION OF HOUSE BILL 146

Motion: Rep. Strizich made a DO PASS motion, seconded by Rep. Wyatt.

Discussion: Rep. Daily recommended that a fiscal note be introduced regarding the cost.

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date JAN. 19, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD			X
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

and CARRIED unanimously.

DISPOSITION OF HOUSE BILL 178

Motion: A DO PASS motion was made by Rep. Brooke, motion seconded by Rep. Darko.

Discussion: Rep. Brown reviewed amendments that were proposed by himself, Rep. Addy and Rep. Mercer. See attached standing committee report.

Amendments, Discussion, and Votes: Rep. Addy moved the amendments, motion seconded by Rep. Knapp. Motion on the amendments CARRIED.

Recommendation and Vote: Rep. Addy motioned HB 178 DO PASS AS AMENDED, motion seconded by Rep. Darko. A vote was taken and PASSED unanimously.

DISPOSITION OF HOUSE BILL 122

Motion: Rep. Brooke moved DO PASS, motion seconded by Rep. Wyatt.

Discussion: John MacMaster read to the Committee the intent of the proposed amendments. Line 21, following "shall", insert also and following "give", insert , prior to the third publication of notice in a newspaper,. Line 22, insert by mail or other means. Line 25, following "(1)", insert or be forever barred. Proof of notice shall be filed with the clerk.

Amendments, Discussion, and Votes: Rep. Addy moved the above proposed amendments (see attached standing committee report), motion seconded by Rep. Brooke. A vote was taken and all were in FAVOR of the amendments.

Rep. Mercer stated that the thing that bothers him is that a person is required to give actual notice to the creditors when they present a probate to the court, and how does the judge know who the creditors are and whether they are known or reasonably ascertainable. What does actual notice mean? Rep. Mercer commented that his inclination is that they would be better off not doing this at all and just leaving the statute the way it is now.

Rep. Addy stated that what they are doing is barring the claims creditors at the end of a 4 month period. First, certified mail isn't any big deal. For a few dollars they can certify their notice of need to file a creditors claim and when they sign for the letter, everything's covered.

Rep. Mercer commented that his point is that they are trying to clean everything up. He feels that Rep. Addy is inviting

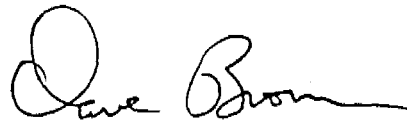
that if a person prepares and sends a certified letter, the receiving party may not pick the letter up. The finality of the states is placed in jeopardy by this provision.

Rep. Addy replied that without the provision, they are faced with the same jeopardy. He suggested they insert in page 1, line 22 by certified mail or other means. Motion was seconded by Rep. Wyatt and CARRIED unanimously.

Recommendation and Vote: Rep. Addy moved HB 122 DO PASS AS AMENDED, motion seconded by Rep. Darko. A vote was taken and PASSED with Rep. Daily and Rep. Gould voting against the motion.

ADJOURNMENT

Adjournment At: 11:27 a.m.



REP. DAVE BROWN, Chairman

DB/je

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DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date JAN. 25, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH			X
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 122 (first reading copy -- white) do pass as amended .

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Page 1, line 21.

Following: "shall"

Insert: "also"

Following: "give"

Insert: ", prior to the third publication of notice in a newspaper,"

2. Page 1, line 22.

Following: line 21

Insert: "by certified mail or other means"

3. Page 1, line 25.

Following: "(1)"

Insert: "or be forever barred. Proof of notice shall be filed with the clerk"

inaccurate or obsolete sections to other code references." The code commissioner bill seemed to be the perfect vehicle for making that correction so that, if any inaccurate or obsolete sections are added by this session of the legislature, they can be corrected without having to go through the code commissioner procedure next session. There are 13 sections in House Bill 5 which do no more than correct inaccurate or obsolete references, he said, so in the future, there should be a shortened code commissioner bill. He called attention to Sec. 82 as an example, which took 5 pages, but was simply a correction of "inaccurate or obsolete references."

Questions From Committee Members: Senator Crippen asked if the bill broadened the authority of the Code Commissioner. Greg Petesch said the authority had existed before but had never been implemented before. No one ever knew of its existence.

Closing by Sponsor: Mr. Mutch, acting in behalf of Senator Crippen co-sponsor, closed the hearing.

DISPOSITION OF HOUSE BILL 5

Discussion: There was none.

Amendments and Votes: There were none.

Recommendation and Vote: Senator Mazurek MOVED that HB 5 DO PASS. The MOTION CARRIED UNANIMOUSLY. Senator Yellowtail agreed to carry the bill on the floor of the Senate.

HEARING ON HOUSE BILL 122

Presentation and Opening Statement by Sponsor: Representative Gary Spaeth of Joliet, District 84, opened the hearing. He said the bill was in response to a 1988 U. S. Supreme Court case entitled Tulsa Professional Collection Services versus Pope, an executor of an estate. The Oklahoma Uniform Probate Code is similar to Montana's in giving creditors notice and creditors having 2 months to respond as far as submitting a claim, he said. That is basically a statute of limitations. The decision held that the statute was not a self-executing statute of

limitations, whether it operates in connection with Oklahoma's probate proceeding to adversely affect appellant's property adversely. Thus, if appellants entity as a creditor was known or reasonably ascertainable, then the due process clause of the U. S. Constitution requires that appellant be given notice by mail or other means certain to insure actual notice. It also has publication requirements as in Montana. The best way to turn the Uniform Probate Code into a self-executing statute of limitations is to adopt House Bill 122. The bill simply adopts the language of the Supreme Court.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions from the Committee:

Senator Mazurek said that Senator Bishop has a bill which made a major probate code change. He asked if Rep. Spaeth would compare this bill with the National Conference's recommendations. Rep. Spaeth said the Conference has no problems with this bill. He added, however, that in two years time, he said, the legislature would have additional "cleanup" on the statute.

Senator Halligan asked if there had been discussion regarding specific or certified notice. Rep. Spaeth said that John McMaster from the House staff didn't like the way the bill had been worded so it had been amended. But he wouldn't object to further amendment.

Senator Bishop said he had proposed some changes regarding notice and wondered if this bill would take care of the whole problem. Rep. Spaeth said that the notice provision had been studied, but he would be happy to get together with Senator Bishop for discussion. By giving notice as stated by the supreme court, it basically turned it into a self-executing statute. But, he had no objections in looking at other sections.

Senator Bishop told Senator Mazurek that he hadn't gotten

information from the National Commission until too late to incorporate it in his bill.

Senator Beck asked if there were a list of creditors available. Rep. Spaeth said that the executor is usually a spouse or other family member who usually knows what the bills are. He seldom had a probate close where he had an unknown claim filed.

Senator Beck asked if the bill would forever bar further claims. Rep. Spaeth said that, before the decision came down, a legal ad was run for 3 weeks. Then the creditor had 4 months in which to claim, but would be barred after that period of time. This would be a self-executing statute of limitations. Without that, settling estates may linger on unnecessarily or other statutes of limitation may apply, he said. In Oklahoma, claims were filed against the heirs of the estate. He felt it was unfair to the heirs for the estate not to be finalized within a reasonable time.

Closing by Sponsor: Rep. Spaeth closed the hearing.

HEARING ON HOUSE BILL 13

Presentation and Opening Statement by Sponsor:

Representative Joe Quilici of Butte, District 7, opened the hearing. He said the bill was a revision of the Crime Victims Compensation Act. One of the provisions was a definition of criminal injurious conduct, he said. A vehicle might be involved in an accident in which someone was accidentally hurt. That would be different from using a vehicle as a weapon to deliberately injure someone, in which case it would be defined as a weapon. The bill will allow a secondary victim to get counselling; for instance, the mother of a rape victim might be so traumatized that she needs counselling. The bill generally fine-tunes the act, he said.

List of Testifying Proponents and What Group they Represent:

Cheryl Bryant, Crime Victims Compensation

List of Testifying Opponents and What Group They Represent:

None

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-28-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

Questions From Committee Members: Senator Jenkins asked about the DUI statute. Peter Funk said the offense -- negligent vehicular assault -- was defined in Title 45 of the Criminal Code. This bill does not propose to change that offense, he said.

Senator Jenkins asked if vehicular assault would be charged when a death occurred in a non-alcohol related accident. Mr. Funk said no, that probably negligent homicide or reckless driving would probably be charged.

Closing by Sponsor: Rep. Cocchiarella closed the hearing.

DISPOSITION OF HOUSE BILL 368

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Halligan MOVED that House Bill 368 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION

HOUSE BILL 122

Discussion: Senator Bishop said that he had discussed the amendments with Rep. Spaeth.

Amendments and Votes: Senator Bishop MOVED that the Amendments (Exhibit 4) be adopted. The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Bishop MOVED that House Bill 122 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

HOUSE BILL 349

Discussion: Senator Yellowtail asked that action on the bill be postponed for further study. The committee agreed.

ROLL CALLJUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-13-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN			✓
SENATOR HALLIGAN	✓		
SENATOR HARP			✓
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 122 (third reading copy -- blue), respectfully report that HB 122 be amended and as so amended be concurred in:

Sponsor: Spaeth (Bishop)

1. Title, line 7.

Following: "ASCERTAINABLE;"

Insert: "REVISING THE TIME LIMITATIONS ON PRESENTATION OF CLAIMS;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "72-3-801"

Insert: "THROUGH 72-3-803, 72-3-808, AND 72-3-1004"

2. Page 1, lines 19 and 20.

Following: "barred" on line 19

Strike: remainder of line 19 through "clerk" on line 20

3. Page 1, line 21 through page 2, line 4.

Strike: subsection (2) in its entirety

Insert: "(2) A personal representative may give written notice by mail or other delivery to any creditor, notifying the creditor to present his claim within 4 months from the published notice if given as provided in subsection (1) or within 30 days from the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice must be the notice described in subsection (1) or a similar notice.

(3) The personal representative is not liable to any creditor or to any successor of the decedent for giving or failing to give notice under this section."

4. Page 2.

Following: line 4

Insert: "Section 2. Section 72-3-802, HCA, is amended to read:

"72-3-802. Statutes of limitations -- waiver -- suspension.

(1) Unless an estate is insolvent, the personal representative, with the consent of all successors whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid.

(2) The running of any statute of limitations measured from some other event than death ~~not advertisement to creditors~~ against a decedent or the giving of notice to creditors is suspended during the 4 months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow.

(3). For purposes of any statute of limitations, the proper presentation of a claim under 72-3-804 is equivalent to commencement of a proceeding on the claim."

Section 3. Section 72-3-803, HCA, is amended to read:
 "72-3-803. Nonclaim -- limitations on presentation of claims -- exceptions. (1) ~~With the exception of claims for taxes and claims founded on tort, all~~ All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented ~~as follows within the~~ within the ~~earlier of the~~ following time limitations:

(a) ~~within 4 months after the date of the first publication of notice to creditors if notice is given in compliance with 72-3-804; provided claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this state are also barred in this state; or~~
 (b) ~~within 3 years~~ 1 year after the decedent's death if notice to creditors has not been published; or

(b) within the time provided by 72-3-801(2) for creditors who are given actual notice and within the time provided in 72-3-801(1) for all creditors barred by publication. However, claims barred by the nonclaim statute at the decedent's domicile before the giving of notice to creditors in this state are also barred in this state.

(2) ~~With the exception of claims for taxes and claims founded on tort, all~~ All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent unless presented as follows:

(a) a claim based on a contract with the personal representative, within 4 months after performance by the personal representative is due;

(b) any other claim, within the latter of 6 months after it arises or the time specified in subsection (1)(a).

(3) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; or

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance; or

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate."

Section 4. Section 72-3-808, MCA, is amended to read:

"72-3-808. Payment of claims. (1) Upon the expiration of 4 months ~~from the date of the first publication of the notice to creditors~~ the earlier of the time limitations provided in 72-3-803 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family, and support allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration.

(2) By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(3) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if:

(a) the payment was made before the expiration of the time limit stated in subsection (1) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(b) the payment was made, due to the negligence or willful fault of the personal representative, in such manner as to deprive the injured claimant of his priority."

Section 5. Section 72-3-1004, MCA, is amended to read:

"72-3-1004. Closing estate by sworn statement of personal representative. (1) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court, no earlier than 6 months after the date of original appointment of a general

personal representative for the estate, a verified statement stating that he, or a prior personal representative whom he has succeeded, has:

(a) ~~published notice to creditors as provided by 72-3-801 and that the first publication occurred more than 6 months prior to the date of the statement determined that the time limitation for presentation of creditors' claims has expired;~~

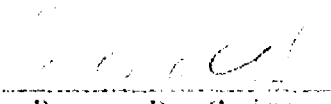
(b) fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims which were presented, expenses of administration, and estate, inheritance, and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled; if any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees, or it shall state in detail other arrangements which have been made to accommodate outstanding liabilities;

(c) sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby; and

(d) complied with the provisions of 72-3-1006.

(2) If no proceedings involving the personal representative are pending in the court 1 year after the closing statement is filed, the appointment of the personal representative terminates."

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman